



IT IS ORDERED

Date Entered on Docket: August 24, 2017

The Honorable David T. Thuma
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re:

LEAH J KERNE

Case No. 7-17-11687-TR

Debtor.

**DEFAULT ORDER GRANTING NATIONSTAR MORTGAGE LLC RELIEF FROM
AUTOMATIC STAY AND ABANDONMENT OF PROPERTY TO NATIONSTAR
MORTGAGE LLC LOCATED AT 461 10TH STREET INDEPENDENCE, OR 97351**

This matter came before the Court on the Motion for Relief from Automatic Stay for the Abandonment of Property to Nationstar Mortgage LLC, filed on July 21, 2017, (DOC 10) (the “Motion”) by Nationstar Mortgage LLC (“Nationstar”). The Court, having reviewed the record and the Motion, and being otherwise sufficiently informed, FINDS:

(a) On July 21, 2017, Nationstar served the Motion and a notice of the Motion (the “Notice”) on E.C. Mike Gomez, Attorney for Debtor(s) and Clarke C. Coll, Trustee (the “Trustee”) by use of the Court’s case management and electronic filing system for the

transmission of notices, as authorized by Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on the Debtor(s) Leah J Kerne, by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014.

(b) The Motion relates to the property located at 461 10th Street Independence, Organ 97351, more fully described as:

Beginning at an iron rod at the Southwest corner of lot 5, Block 2, Patterson's Second Addition to the City of Independence, Polk County, State of Oregon; and running thence North 00 deg. 01' West along the West line of said Lot 5 a distance of 60.00 feet to an iron rod, said Iron rod also being the true point of beginning of the herein described land; thence East, parallel with the South line of said Lot 5 a distance of 91.38 feet to an iron rod; thence North 00 deg. 01' West parallel with the East line of Lots 5, 6 and 7 and said Block 2, a distance of 85.52 feet to an Iron rod in the North line of that certain tract of and conveyed to Alan L. Bowles and Wife, by Deed recorded in Volume 69, Page 964, Book of Records for said Polk County; thence South 88 deg. 06' 30" West, along said North line to a point on the East line of 10th Street, said point being 10.5 feet North of the Northwest corner of said Lot 6; thence South 00 deg. 01' East along the West line of said Lots 7, 6 and 5 a distance of 82.5 feet to the true point of beginning, (Plat Volume D15, Page 462)

Together with: a sewer line easement over and across the following described land: Beginning at a point which is 48.0 feet South of the Northeast corner of Lot 6, Block 2, Patterson's 2nd Addition to the City of Independence, Polk County Oregon: said point also being on the East line of Lot 6, Block 2; thence West 60.0 feet along proposed sewer line easement. Said easement to be 15.0 feet in width and lying 7.5 feet either side of the above described easement line.

including any improvements, fixtures, and attachments, such as, but not limited to, mobile homes (the "Property"). If there is a conflict between the legal description and the street address, the legal description shall control.

(c) The Notice provided for an objection deadline of 21 days from the date of service of the Notice, to which three days was added pursuant to Bankruptcy Rule 9006(f);

(d) The Notice was sufficient in form and content;

(e) The objection deadline expired on August 14, 2017;

(f) As of August 22, 2017, neither the Debtor nor the Trustee, nor any other party in interest, filed an objection to the Motion;

(g) The Motion is well taken and should be granted as provided herein; and

(h) By submitting this Order to the Court for entry, the undersigned counsel for Nationstar certifies under penalty of perjury that, on the date this Order was presented Rose L. Brand & Associates, P.C. searched the data banks of the Department of Defense Manpower Data Center ("DMDC"), and found that the DMDC does not possess any information indicating that the Debtor is currently on active military duty of the United States.

IT IS THEREFORE ORDERED:

1. Pursuant to 11 U.S.C. §362(d), Nationstar and any and all holders of liens against the Property, of any lien priority, are hereby are granted relief from the automatic stay:

(a) To enforce its rights in the Property, including foreclosure of liens and a foreclosure sale, under the terms of any prepetition notes, mortgages, security agreements, and/or other agreements to which Debtor is a party, to the extent permitted by applicable non-bankruptcy law, such as by commencing or proceeding with appropriate action against the Debtor or the Property, or both, in any court of competent jurisdiction; and

(b) To exercise any other right or remedy available to it under law or equity with respect to the Property.

2. The Trustee is deemed to have abandoned the Property from the estate pursuant to 11 U.S.C. §554 as of the date of entry of this Order, and the Property therefore no longer is property of the estate. As a result, Nationstar need not name the Trustee as a defendant in any state court action it may pursue to foreclosure liens against the Property and need not notify the Trustee of any sale of the Property.

3. The automatic stay is not modified to permit any act to collect any deficiency or other obligation as a personal liability of the Debtor, in the event that a discharge order is entered. The Debtor can be named as a defendant in litigation to obtain judgment or to repossess the Property in accordance with applicable non-bankruptcy law, pursuant to any discharge order entered.

4. This Order does not waive Nationstar's claim against the estate for any deficiency owed by the Debtor after any foreclosure sale or other disposition of the Property. Nationstar may file an amended proof of claim in this bankruptcy case within thirty (30) days after a foreclosure sale of the Property, should it claim that Debtor owe any amount after the sale of the Property.

5. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

6. This order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

7. Nationstar is further granted relief from the stay to engage in loan modification discussions or negotiations or other settlement discussions with the Debtor and to enter into a loan modification with the Debtor.

XXX END OF ORDER XXX

RESPECTFULLY SUBMITTED:
ROSE L. BRAND & ASSOCIATES, P.C.

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